

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 23, 2007 (the “Office Action”). Claims 8, 16-24, 28, 34-67 and 72-78 were cancelled without prejudice in a previous amendment. Claims 1-7, 9-15, 25-27, 29-33, and 68-71 have been cancelled without prejudice in the present amendment. New claims 79-91 have been added in the present amendment.

Section 103 Rejections

In the Office Action, Claims 1-7, 9-15, 25-27, 29-33 and 68-71 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,588,732 to Caceres et al. (“Caceres”) in view of U.S. Patent Application Publication 2001/0047741 to Gleeson et al (“Gleeson”). Claims 25-27, 29-33 and 68-71 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 3,801,072 to Newberry, Jr. (“Newberry”) in view of Gleeson. With respect to the rejections as applied to Claims 1-7, 9-15, 25-27, 29-33 and 68-71, these claims have been cancelled without prejudice in the present amendment and as such, Applicants submit that the rejections with respect to these claims are rendered moot.

New claims 79-91 are presented herein. They are believed to readily distinguish over the prior art of record and are argued to be allowable.

In an effort to advance this case to allowance, Applicants briefly discuss the main references cited by the Examiner in support of the 103 rejections in the Office Action, Caceres and Newberry. Caceres is directed to a fiberglass fencing system using elongated components made of fiberglass plastic (Abstract). Caceres’ fence system is formed by a pultrusion process which combines a resin and reinforced plastic fibers, followed by pulling the combination through a die. *See* Caceres Col. 3, lines 1-6. If texture is desired for the fence component, a different material than the material that makes up the elongated components is used, specifically a structural support material - “resin impregnated reinforcing fiber mesh” - which is applied as a laminate. *See* Caceres Col. 3, lines 29-32. Caceres does not disclose or suggest a fencing system containing “an elongated member comprising fiber cement having fibers, the elongated member having at least a front surface and a back surface, each of the front surface and the back surface

having a pattern, wherein the pattern is formed of the same material as the elongated member” for example, as recited in Applicants’ claim 1 as amended.

With respect to Newberry, Newberry’s fiberglass fence panel requires various components (including providing a sheet of fiberglass mat, fiberglass cloth, and polyurethane resin) as well as specialty attachments (including an “*integrally formed* mounting frame”, see Newberry abstract) and complementary fixtures for securing the fiberglass fence panel in an upright position. Newberry does not disclose or suggest – and in fact teaches away from – a fencing system that “does not contain any attachments on the front surface or the back surface for attaching the elongated member to the horizontal mounting surface, wherein the elongated member is secured to the horizontal mounting surface only by a fastener passing through the front surface and back surface of the elongated member and into the horizontal mounting surface” as recited in Applicants’ claim 1 as amended.

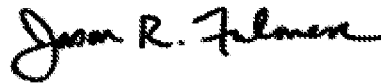
Applicants respectfully submit that none of the art of record, alone or in combination, discloses or suggests a fencing system as recited in Applicants’ claim 1 and the claims depending therefrom.

For the reasons set forth above, Applicants respectfully request withdrawal of the rejections under Section 103 and allowance of pending claims 79-91.

CONCLUSION

In light of the amendments and remarks set forth above, Applicants respectfully submit that the Application is now in allowable form. Accordingly, Applicants respectfully request consideration and allowance of the currently pending claims. It is believed that no additional fees are due at this time. If this is incorrect, Applicants hereby authorize the Commissioner to charge any fees, other than issue fees, that may be required by this paper to Deposit Account No. 07-0153. The Examiner is respectfully requested to call Applicants' Attorney for any reason that would advance the current application to issue.

Respectfully submitted,



Jason R. Fulmer
Registration No. 46,715
Gardere Wynne Sewell LLP
Thanksgiving Tower
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Telephone: 214.999.4487
Facsimile: 214.999.3487
jfulmer@gardere.com
ATTORNEY FOR APPLICANTS
July 22, 2008